IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5678 OF 2005

Tukaram Krishna Sonwalkar. ... Applicant.

Versus.

The State of Maharashtra. ... Respondent.

Shri Rahul S.Kate for the Applicant.

Ms.M.H.Mhatre, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 13th Sept., 2005.

P.C.:

1. Heard the learned Advocate appearing for the Applicant and the learned A.P.P. for the State. The offence alleged against the Applicant is under sections 143, 147, 148, 149, 326, 436, 323, 506 and 504 of the Indian Penal Code.

2. The learned Advocate for the Applicant submitted that the other co-accused including co-accused Balu Krishna Sonwalkar have been enlarged on bail. He submitted that initially section 307 of the Indian Penal Code was not applied and the same was applied only in the light of the observations made by the learned Sessions Court while rejecting the first bail application made by the Applicant. He submitted that section 307 of the IPC is not applicable and therefore, as the charge sheet is filed, the Applicant is entitled to be enlarged on bail.

3. The learned A.P.P. pointed out that the allegation against the Applicant is that he assaulted the injured person Banubai by an axe on her head. The learned A.P.P. however did not dispute that the co-accused Balu has been enlarged on bail. The learned A.P.P. submitted that considering that an axe has been used by the Application as a weapon of assault, he is not entitled to be enlarged on bail. The learned Advocate for the Applicant stated that in case the Applicant is enlarged on bail, the Applicant will not enter the village Wadale till conclusion of the trial.

4. I have considered the submissions. The injury certificate of the injured person Banubai shows that she has received 3 grievous injuries. The injury on the frontal region appears to be caused by an axe and the other two injuries are caused by a blunt and hard object. The injury certificate disclosed that there is no fracture suffered by her as a result of injury on the head. The allegation of the prosecution is that the co-accused Balu assaulted the said Banubai by an iron rod. Out of the three injuries sustained by her, two appear to have been caused by iron road. The co-accused Balu has been enlarged on bail. The Applicant has offered to stay away from the village. The Applicant is in custody from 1st March 2005. There are no criminal antecedents of the Applicant. Hence he is entitled to

be enlarged on bail.

5. Hence the following order is passed:

(i) The Applicant shall be enlarged on bail in connection with C.R.No.50 of 2005 registered at Phaltan Police Station, Dist. Satara, subject to furnishing a personal bond of Rs.10,000/- with one or two local sureties in the like amount.

(ii) The bail is granted subject to condition that till completion of trial the Applicant will not enter the limits of village Wadale, Taluka Phaltan. The Applicant will be enlarged on bail only after he furnishes to the Investigating Officer the detailed address of place of his residence where he proposes to stay after he is enlarged on bail.

(iii) The bail is granted subject to further condition that the Applicant will report to the Investigating officer once in a fortnight till conclusion of trial.

(iv) The Bail is granted subject to condition that the Applicant shall not, directly or

indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(v) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

Judge.